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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,027	07/25/2001	Adrianus J. van den Nieuwelaar	V0028/260870	9327

23370 7590 02/25/2002

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EXAMINER

COPIER, FLORIS C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,027

Applicant(s)

NIEUWELAAR ET AL.

Examiner

Chad Copier

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-72 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 58-72 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 67-69 and 72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 67, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 68 recites the limitation "the free end" in lines 6 and 7. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 58-65 and 67-72 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyn et al. (US 4418445).

As to claims 58 and 62, Meyn discloses a method for processing a slaughtered bird comprising breaking at least one tissue connection between the belly skin and the viscera of the bird prior to evisceration of the carcass of the bird (col 1 lines 58-68).

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As to claims 59, 63, 70 and 71, the tissue in Meyn is separated by a separating means (24) introduced into the carcass of the bird through the vent hole in the skin (col 1 lines 58-68).

As to claims 60 and 64, Meyn's separating means are rotated in the carcass (col 3 lines 23-25).

As to claims 61 and 65, Meyn's separating means scrapes the inside of the skin, stretching the skin out from the body (col 1 lines 58-68).

As to claim 67, 68 and 72, Meyn discloses a method for inserting a substantially elongated element (21) with a free end (near 24) under the skin of the belly of a slaughtered bird which is provided with a hole in the skin obtained by cutting out the vent (col 1 lines 58-68) comprising: inserting a protection element (24, 25) through the hole and into the bird, wherein the protection element comprises a stop face (24) adapted for pushing away the viscera from the hole; positioning the free end (21 near 24) of the elongated element in the hole near the stop face; and rotating the elongated element to insert the free end of the elongated element under the skin (col 1 lines 58-68, col 3 lines 23-25).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn et al. ('445) in view of Meyn (US 4059868). Meyn '445 discloses all of the features of the invention as described above except a second moving means for placing a protection element in the carcass prior to or during moving the separating means in the carcass.

Meyn '868 discloses a second moving means (20) for placing a protection element (23) in the carcass prior to or during moving the separating means (24) in the carcass (Fig 2).

It would have been obvious to one having ordinary skill in the art to include an additional member inserted into the bird such as that of Meyn '868 with the device of Meyn '445 because it would help to stabilize the carcass and help hold the viscera away from the separating member.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Copier whose telephone number is 703-306-0939. The examiner can normally be reached on M-F 8:30 - 5:00.

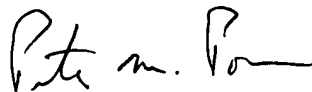
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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February 19, 2002

A handwritten signature in black ink, appearing to read "Peter M. Poon". The signature is fluid and cursive, with the first name "Peter" and last name "Poon" being more prominent than the middle initial "M".

PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600